

# Reclamation Manual

## Directives and Standards

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**Subject:** Financial Assistance Management (Grants and Cooperative Agreements)

**Purpose:** This release establishes Reclamation-wide procedures and guidance to promote the effective and consistent use of grants and cooperative agreements to enhance accomplishment of Reclamation programs.

**Authority:** 43 CFR 12, Administrative and Audit Requirements and Cost Principles for Assistance Programs. 505 DM 1-5, policies, procedures, and regulations which implement Government-wide Federal assistance statutory or regulatory requirements. 505 DM 1.3B, development and issuance of bureau/office policies and procedures which will implement Departmental requirements at the regional and field levels.

**Contact:** Acquisition and Assistance Management Services, D-7800

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1. **Applicability.** Reclamation provides assistance to State and local governments and subentities (including Indian Tribes); colleges and universities; nonprofit organizations; and, in some instances, commercial organizations. Such actions are normally entered into in accordance with the Reclamation Act of 1902, as amended and supplemented, together with specific legislation authorizing the programs.
  - A. The Federal Grant and Cooperative Agreement Act of 1977 [P.L. 95-224, subsequently recodified as Chapter 63 of P.L. 97-258 (31 U.S.C. 6301 et seq.)], directs Federal agencies to provide uniformity in the use of business instruments under two basic categories, (1) acquisition and (2) financial assistance.
  - B. A grant or a cooperative agreement will be used when the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute [31 U.S.C. 6304(1)]. If a financial assistance instrument is appropriate, a cooperative agreement will be selected when substantial involvement is anticipated between the executive agency and the recipient during performance [31 U.S.C. 6305(2)]. However, a grant will be selected when no substantial involvement is anticipated between the executive agency and the recipient during performance [31 U.S.C. 6304(2)].
2. **Reclamation Financial Assistance Handbook.** The Reclamation Financial Assistance Handbook is issued by Acquisition and Assistance Management Services (D-7800) and provides guidance to implement these standards and directives, establishes the authority for the use of grants and cooperative agreements, identifies programs under which Reclamation has authority for the use of grants and cooperative agreements, and

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describes procedures for ensuring uniform use of grants and cooperative agreements within Reclamation.

- A. Revisions to the Handbook are issued as they become necessary by way of Reclamation Financial Assistance Memoranda which are transmitted electronically to offices involved in the award and administration of grants and cooperative agreements.

### 3. Delegation of Authority.

- A. The Commissioner is authorized to exercise all of the authority (subject to specific limitations) vested in the Secretary and delegated to the Assistant Secretary – Water and Science (reference: 209 DM 7.1 and 7.2, 255 DM 1.1, and 255 DM 3.1).
- B. The Regional Directors and the Director, Management Services have been delegated the authority to serve as Grants and Cooperative Agreements Officers and are delegated the authority to enter into and administer grants and/or cooperative agreements, subject to the prior review and approval requirements set forth in 4E, F, and G below.
- C. This authority may be redelegated in writing to individuals (not positions) to function as Grants and/or Cooperative Agreements Officers, with full power to sign and administer grants and/or cooperative agreements, subject to qualifications in 3D below, and the prior review and approval requirements set forth in 4E, F, and G below, as applicable. The redelegation should be made to the lowest level in the organization at which competence can be made available to deal with matters on a local level. Further redelegation of this authority is prohibited. A copy of each delegation will be sent to Acquisition and Assistance Management Services, D-7800.
- D. The following training requirements will be met by persons delegated the authority by the Regional Directors and Director, Management Services:
  - (1) Any person delegated the authority of a Grants and/or Cooperative Agreements Officer will successfully complete at least 24 hours of training applicable to grants and cooperative agreements. Required training will be completed as soon as practicable, but in no event later than 1 year from the date of receipt of the authority.
  - (2) Subsequent to the initial period of appointment identified in 3D(1) above, 24 hours of training courses related to the review process and award and

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administration of financial assistance agreements will be completed during each 3-year period of signatory authority.

- (3) If the training requirement has not been met within the established period of time, the authority is automatically canceled.

#### 4. **Administrative Requirements.**

##### A. **Written Determination.**

- (1) No grant will be made or cooperative agreement entered into until a signed and dated written determination has been made that such is the appropriate business instrument for that particular transaction. The determination will also be made prior to issuing modifications that result in expansion of the work outside the scope of the agreement.
- (2) The determination will cite the specific program under which there is authority to enter into the proposed agreement. The determination will contain sufficient information to document that the principal purpose of the agreement is the transfer of money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support or stimulation, rather than of acquiring property or services for the direct benefit or use of the Federal Government. It will also contain complete information on the nature of the relationship between Reclamation and the recipient to justify the use of either a cooperative agreement (substantial involvement by Reclamation) or a grant (no substantial involvement anticipated).
- (3) The written determination will be made by a Level IV contracting officer at the contracting office servicing the requiring office, whether or not the contracting office issues grants or cooperative agreements. In situations where there is no such individual, the determination will be made by the Manager, Acquisition and Assistance Management Services (D-7800).

- B. **Numbering System.** All grants and cooperative agreements, and all modifications thereto, will be numbered in accordance with the uniform business instrument numbering system prescribed by Reclamation Acquisition Regulation System (RARS) WBR 1404.8111. The third and fourth positions of the 10-digit number will be:

FC – Cooperative Agreements  
FG – Grants

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#### **C. Competition Requirement.**

- (1) In accordance with the intent of the Grants and Cooperative Agreements Act, award of all grants and cooperative agreements will be made on a competitive basis unless the award falls within one of the following exceptions:
  - (a) Awards which are statutorily mandated or based on a statutory formula (by definition, "non-discretionary"),
  - (b) Awards made for \$25,000 or less,
  - (c) Awards made for \$100,000 or less for the continuation of a project by the initial recipient,
  - (d) Awards made to satisfy a particular need or problem which cannot adequately be generalized for the purpose of competition,
  - (e) Awards where there is insufficient time available due to a compelling and unusual urgency involving an emergency or a substantial danger to health or safety for adequate competitive procedures to be followed,
  - (f) Awards where it is impracticable to secure competition (e.g., when there are no other eligible recipients), or
  - (g) Awards where award without competition is consistent with Federal law or Executive Order (i.e., where the existence of the assistance project must be confidential for purposes of national security, defense, or law enforcement).
- (2) Awards eligible under exceptions 4C(1)(b) through (d) above may, however, be competitively awarded at the discretion of the awarding office.

#### **D. Noncompetitive Agreements.**

- (1) Prior to issuing a noncompetitive grant or cooperative agreement under 4C(1)(d) through (g) above, a written Justification for Noncompetitive Assistance (JNCA) will be signed by the Grants and/or Cooperative Agreements Officer.
- (2) The contents of the JNCA will:
  - (a) Identify the financial assistance action,

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- (b) Cite the exception to the requirement for competition [see 4C(1) above],
- (c) Set forth the supporting data in sufficient detail to provide the basis for the exception, and
- (d) Address whether there will be recurring or future need for this or similar assistance (and, if so, whether further actions will be processed on a competitive basis).

#### E. **Independent Review.**

- (1) An independent review will be performed prior to issuance or execution, as applicable, of the following types of financial assistance actions:
  - (a) Competitive solicitations,
  - (b) Awards,
  - (c) Modifications (except those issued strictly for the purpose of obligating or deobligating funds), and
  - (d) Termination and suspension notices.
- (2) Individual offices will determine the dollar level at which these actions are reviewed, and may extend the requirements for independent review to other areas.
- (3) The procedures described in RARS WBR 1401.7001-3(c) (adapted as necessary for financial assistance) will be followed. The independent review will be documented using a format substantially the same as the Record of Independent Review format (illustrated in WBR 1453.303-1401-5 and 5A).

#### F. **Legal Review.** Legal review will be obtained for proposed grants and cooperative agreements prior to issuance of all solicitations, awards, and modifications thereto under the following circumstances:

- (1) When the estimated value to be provided thereunder exceeds \$300,000 (including all options).
- (2) When advice is needed, especially when there is disagreement as to the appropriate business instrument to be used. Offices are encouraged to seek the advice of the cognizant Regional or Field Solicitor on other legal matters as considered beneficial.

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#### G. Approvals.

- (1) The written approval of the chief of the contracting office (see RARS WBR 1402.1 for definition) will be obtained prior to the award or issuance of all noncompetitive financial assistance actions over \$100,000 (including all option amounts), except those meeting exception 4C(1)(a) above. [Where approval by the Manager, Acquisition and Assistance Management Services also is required {see 4G(2) below}, the approvals will be cumulative.]
  - (2) The written approval of the Manager, Acquisition and Assistance Management Services (D-7800) will be obtained prior to the award of all noncompetitive financial assistance actions over \$500,000 (including all option amounts), except those meeting the requirements of 4C(1)(a) above.
5. **Management Control Program.** Financial assistance activities are included as an area of concern to be reviewed in compliance with the Federal Managers' Financial Integrity Act, Office of Management and Budget Circular A-123, "Management Accountability and Control," and the Department's implementation of internal control procedures.
6. **Cooperative Research and Development Agreements Under the Federal Technology Transfer Act of 1986 (P.L. 99-502).** This Act authorizes Reclamation laboratories to enter into Cooperative Research and Development Agreements with other Federal agencies, units of State or local government, and other organizations set forth in the Act [Sec. 12(a)(1)]. Guidance for entering into such agreements is contained in the Handbook on Issuance of Cooperative Research and Development Agreements Under the Federal Technology Transfer Act of 1986, which was developed and is maintained by the Acquisition and Assistance Management Services (D-7800).